

**Affidavit of Laurence V. Cronin**

**Exhibit FF**

**Christiana Care Adult Medicine Office**

Wilmington Hosp. Health Center 501 West 14th Street Wilmington, DE 19801  
302-428-4411 Fax: 302-428-4076

October 5, 2005

Page 1  
Chart Document

**Ms. HESTAL LIPSCOMB**

Female DOB: **REDACTED**

Home: (302)655-8973 Office: (302)345-3253

1357712-0220001

Ins: DPCI (MENDS)

**04/13/2004 - Phone Note: Surgical letter for work**

**Provider: Shazi Zodeh RN**

**Location of Care: Christiana Care Chief's Surgical Service**

**PCP: Mausumee Hussain MD**

**Patient's phone #: Home: (302)655-8973**

**Alt. call back #: 454-7622 ext 141**

**Caller: patient**

Receptionist note: Pt is scheduled to have surgery 4-29. Pt needs a letter to be faxed (302-454-1074) to her employer (EDS) stating date/ time/ and name of MD doing the surgery as well MD phone #. The letter also needs to state how long the pt will be out of work.

.....Ashley Monroe MA April 13, 2004 9:54 AM

Pt calling again regarding the above letter that she needs. PLease call pt when completed.

.....Ashley Monroe MA April 19, 2004 8:56 AM

Letter signed by Dr kraut chief resident was faxed . Pt was notified.

Signed by Shazi Zodeh RN on 04/20/2004 at 9:19 AM

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HL-078

**Affidavit of Laurence V. Cronin**

**Exhibit GG**

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF DELAWARE

3    HESTAL LIPSCOMB,                   )

)

4

)

                  PLAINTIFF,                   )

5

)

      VS.                   )

CIVIL ACTION

6

)

)   NO.: 05-477 SLR

7    ELECTRONIC DATA SYSTEMS                   )

      CORPORATION, a Delaware                   )

8    Corporation,                   )

)

9

)

      DEFENDANT.                   )

**RECEIVED**  
**MAY 18 2006**  
**LVC**

10

11

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                  ORAL DEPOSITION OF

12

                  GRACIE GUNTHER

13

                  May 4, 2006

14

                  Volume 1  
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15

16

17           ORAL DEPOSITION OF GRACIE GUNTHER, produced as a witness  
18 at the instance of the PLAINTIFF, and duly sworn, was taken in  
19 the above-styled and numbered cause on the 4th day of May,  
20 2006, from 9:51 a.m. to 10:41 a.m., before Caroline Tadlock,  
21 RPR, CSR in and for the State of Texas, reported by machine  
22 shorthand, at the law offices of Crouch & Ramey, 1445 Ross  
23 Avenue, Suite 3600, Dallas, Texas, pursuant to the Federal  
24 Rules of Civil Procedure and the provisions stated on the  
25 record or attached hereto.

Case 1:05-cv-00477-SLR Document 56-22 Filed 07/03/2006 Page 5 of 19

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1 APPEARANCES

2

3 FOR THE PLAINTIFF:

4 Mr. Laurence V. Cronin

5 SMITH KATZENSTEIN FURLOW, LLP

6 The Corporate Plaza

7 800 Delaware Avenue

8 Wilmington, Delaware 19899

9 302-652-8400

10

11 FOR THE DEFENDANT:

12 Mr. Thomas J. Piatak

13 BAKER HOSTETLER

14 3200 National City Center

15 1900 East 9th Street

16 Cleveland, Ohio 44114-3485

17 216-861-7148

18 FOR THE WITNESS:

19 Mr. Craig A. McDougal

20 CROUCH & RAMEY

21 1445 Ross Avenue

22 Suite 3600

23 Dallas, Texas 75202

24 214-922-7100

25

Page 4

1 GRACIE GUNTHER,

2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 BY MR. CRONIN:

5 Q. Good morning, Ms. Gunther.

6 A. Good morning.

7 Q. My name is Larry Cronin. I represent Hestla Lipscomb

8 in a lawsuit that's pending in the U.S. District Court for the

9 District of Delaware.

10 Have you ever been deposed before?

11 A. Yes, I did.

12 Q. How many times?

13 A. One time.

14 Q. When was that?

15 A. Last year.

16 Q. What kind of case?

17 A. It was some sort of -- pretty much just verified the

18 records.

19 Q. Okay. Just authenticate the records being produced?

20 A. Right.

21 Q. Okay. What was the name of the case?

22 A. I cannot recall.

23 Q. Do you know what jurisdiction it was in?

24 A. I cannot recall.

25 Q. Going forward, I'd like you to keep a couple of

Page 3

1 INDEX

2 PAGE

3 Appearances..... 2

4 Stipulations..... 30

5 GRACIE GUNTHER

6 Examination by Mr. Cronin..... 4

7

8 Signature and Changes..... 32

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10 Reporter's Certificate..... 33

11

12 EXHIBITS

13

NO. DESCRIPTION PAGE

1 Subpoena and copy of Ms. Lipscomb's file 9

2 3/28/06 letter from Mr. Cronin with attachments 14

3 4/2/06 fax attaching data entries to the LINA

4 system 19

5 4/3/06 letter from Mr. Cronin to Ms. Gunther 19

6 4/3/06 fax Mr. Cronin sent to 800-377-4286 24

7 Transcript of voice mail from Elizabeth Williams 25

8 Transcript of voice mail from Janice Cook 25

9 Page from CIGNA web-site titled How to File a

10 Disability Claim 28

20

21

22

23

24

25

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1 things in mind so that we can make a clear record of the

2 testimony in this case.

3 First of all, make sure that you understand my

4 question. If there's anything that's confusing to you, please

5 ask me, and I'll be glad to restate it or rephrase it.

6 Second, make sure I'm done before you start

7 answering. We need to have a clean transcript for possible

8 later use in the case. And it's important that the transcript

9 clearly reflect when the questions end and the answers start.

10 Finally, answer verbally. Don't nod your head

11 or shake your head to indicate a response to my questions.

12 Okay?

13 A. Yes.

14 Q. All right. What's your highest level of formal

15 education?

16 A. Master's degree in education.

17 Q. Okay. When did you get your master's degree in

18 education?

19 A. 1983.

20 Q. Where are you presently employed?

21 A. Life Insurance Company of North America.

22 Q. And how long have you been employed by Life Insurance

23 Company of North America?

24 A. Since 1991.

25 Q. And is it okay with you if I refer to your employer

2 (Pages 2 to 5)

Page 6

1 as LINA?

2 A. Yes, of course.

3 Q. What is the relationship between LINA and CIGNA?

4 A. LINA is one of the divisions of CIGNA Corporation.

5 Q. Is it a division or a subsidiary? Is it separate --

6 A. Subsidiaries.

7 Q. Okay. And what are the functions of LINA?

8 A. Mainly is for disability insurance.

9 Q. And when you say disability insurance, what do you

10 mean?

11 A. Including long-term, short-term --

12 Q. Okay.

13 A. -- and life insurance.

14 Q. Now, in terms of long-term disability and short-term

15 disability, does that include both group insurance as well as

16 individual insurance?

17 A. I think it's more -- most -- most business we deal

18 with is group.

19 Q. How many employees does LINA have?

20 A. I don't know.

21 Q. What's your current position?

22 A. Senior claim manager.

23 THE REPORTER: Senior what manager?

24 THE WITNESS: Senior claim manager.

25 Q. (BY MR. CRONIN) And how long have you been senior

Page 7

1 claim manager?

2 A. Since 1997.

3 Q. Can you tell me, basically, what your job duties are

4 as senior claim manager?

5 A. Provide technical aspects in terms of claim

6 management.

7 Q. What do you mean technical aspects?

8 A. Provide the directions to claim manager.

9 Q. So you're, basically, a resource for others to go to

10 for technical assistance?

11 A. Correct.

12 Q. Do you have any responsibilities for particular

13 accounts or clients of --

14 A. No.

15 Q. -- LINA?

16 Okay. I'd like to stop you for a second.

17 A. Sure.

18 Q. I notice you're starting to jump in a little bit

19 quickly in response to my questions. If you could try to just

20 slow down a little. I know you want to get this over.

21 How many businesses does LINA provide group

22 disability benefits for?

23 A. I don't have any idea.

24 Q. How does the company work with individual clients

25 with respect to administering short-term disability?

Page 8

1 MR. McDOUGAL: Objection; form.

2 A. Can you --

3 Q. (BY MR. CRONIN) Do you understand the question?

4 A. Yeah.

5 Q. Does LINA assign particular people to work on

6 particular accounts?

7 A. Yes.

8 Q. Okay. Are those people who are assigned particular

9 accounts only assigned to those accounts, or are they assigned

10 to multiple accounts?

11 A. Depending on how big the account is.

12 Q. Okay. So in -- with certain accounts, there would be

13 a team of individuals assigned just to that account?

14 A. Yes.

15 Q. Okay. Are you familiar with the account EDS?

16 A. No.

17 Q. You're not familiar with that account at all?

18 A. Huh-uh, no.

19 Q. Why were you, if you know, selected to be involved in

20 responding to the subpoena in this case?

21 A. I am the person who responsible to -- response of --

22 you know, response to all the subpoenas for the office.

23 Q. And how long have you had that responsibility?

24 A. Since 1998.

25 Q. How did you first get involved in connection with

Page 9

1 this subpoena?

2 A. Can you repeat?

3 Q. Yeah.

4 I'm just trying to figure out when was the first

5 point in time you became aware of this case.

6 A. When I received your subpoena at first.

7 Q. Okay. Now, did you review any documents in

8 preparation for this deposition?

9 A. No.

10 Q. Have you talked to anyone about this subpoena or the

11 case at any time?

12 A. No.

13 MR. CRONIN: Mark that, please.

14 (Exhibit 1 marked.)

15 Q. (BY MR. CRONIN) Ms. Gunther, I'm going to hand you

16 what's been marked as CIGNA No. 1. And if it's okay with you,

17 we'll refer to the documents as CIGNA even though, as you have

18 explained --

19 A. Uh-huh.

20 Q. -- the subpoena itself is directed to LINA, which is

21 a subsidiary of CIGNA. Is that okay?

22 A. Yeah.

23 Q. Okay.

24 MR. McDOUGAL: Can I take just a minute, is that

25 okay, before we get into them?

Page 10

1 MR. CRONIN: Sure, sure.  
 2 MR. McDOUGAL: You are the one that put the  
 3 Bates number on there?  
 4 MR. CRONIN: That's correct.  
 5 MR. PIATAK: Can we have someone make two copies  
 6 of that quickly for you and me?  
 7 MR. McDOUGAL: Okay. Do you want to go off the  
 8 record for a minute, please?  
 9 (A break was taken from 9:59 a.m. to 10:10 a.m.)  
 10 (Requested portion was read.)  
 11 Q. (BY MR. CRONIN) Do you recognize what's been marked  
 12 as CIGNA No. 1?  
 13 A. Yes.  
 14 Q. Okay. What is it?  
 15 A. My response to the subpoena.  
 16 Q. Okay. Can you tell me what you did upon receiving  
 17 the subpoena in order to provide a response?  
 18 A. Get a file copy.  
 19 Q. Get a file copied?  
 20 A. Uh-huh. And provided documents according to the  
 21 request.  
 22 Q. Okay. Now, when you said you got a file copied, what  
 23 did you actually do in order to get a file copied?  
 24 A. I have one of our support staff copy the file.  
 25 Q. And where is the file physically kept?

Page 11

1 A. In our office.  
 2 Q. All right. So to the best of your knowledge, what  
 3 has been marked as CIGNA No. 1 are the entire contents of this  
 4 file regarding Hestal Lipscomb?  
 5 A. Yes.  
 6 Q. Now, looking through the file -- or, rather, looking  
 7 through the documents that were produced, marked as CIGNA  
 8 No. 1 -- strike the question.  
 9 Was CIGNA involved in administering both FMLA  
 10 leave and short-term disability on behalf of EDS?  
 11 A. I have no idea.  
 12 Q. Does CIGNA keep separately its files regarding EDS  
 13 employees with respect to FMLA leave and short-term disability  
 14 leave?  
 15 A. I don't know.  
 16 Q. The -- could you turn to the subpoena itself?  
 17 A. Uh-huh.  
 18 Q. And, specifically, if you'd turn to the page that's  
 19 been marked LINA 004.  
 20 A. (Witness complies.)  
 21 Q. And do you see under No. 1, under Documents  
 22 Requested, it asks for all documents that refer or relate to  
 23 Hestal Lipscomb's --  
 24 A. Uh-huh.  
 25 Q. -- attempts to obtain either STD benefits or FMLA

Page 12

1 leave in 2004 while employed by EDS? Do you see that?  
 2 A. Uh-huh.  
 3 Q. I need you to answer verbally, if you would, please.  
 4 MR. McDOUGAL: Yes or no, if it's yes or no.  
 5 You can't do an uh-huh or a huh-uh.  
 6 A. No.  
 7 MR. McDOUGAL: What was the question?  
 8 Q. (BY MR. CRONIN) It refers to FMLA leave, correct?  
 9 Yes or no?  
 10 A. Yes.  
 11 MR. McDOUGAL: What he's referring --  
 12 Q. (BY MR. CRONIN) All right. Did you make any effort  
 13 to find out if CIGNA had any documents that related to Hestal  
 14 Lipscomb's FMLA leave -- or attempt to get FMLA leave in 2004  
 15 while employed at EDS?  
 16 A. It's my understanding we only have STD files.  
 17 Q. Okay. Where did you get that understanding?  
 18 A. On the system.  
 19 Q. From the system?  
 20 A. Uh-huh.  
 21 Q. Yes?  
 22 A. Yes.  
 23 Q. So you went on -- tell me what you mean by "on the  
 24 system."  
 25 A. On a computer.

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1 Q. What's your understanding of what happens to records  
 2 relating to applications for FMLA leave --  
 3 A. I don't --  
 4 Q. Please let me finish.  
 5 A. Okay.  
 6 Q. -- when they are administered by CIGNA for EDS?  
 7 A. I don't know -- FMLA.  
 8 Q. Okay.  
 9 A. Uh-huh.  
 10 MR. CRONIN: Craig, we're going to need a  
 11 comprehensive response to this.  
 12 MR. McDOUGAL: Well, let me -- I think there may  
 13 be some confusion, and maybe it's regarding the terminology  
 14 that the -- the subpoena is to LINA, and she's a LINA employee.  
 15 And if you're asking her questions about CIGNA, I think that's  
 16 probably where it is lost.  
 17 I honestly -- I don't know if LINA administers  
 18 the FMLA. It could be some other company. But the subpoena  
 19 was to LINA, and that's who she's employed by. So maybe that's  
 20 the issue, you know.  
 21 MR. CRONIN: Okay. Off the record.  
 22 (An off-the-record discussion was held from  
 23 10:14 a.m. to 10:15 a.m.)  
 24 MR. CRONIN: Back on the record.  
 25 Q. (BY MR. CRONIN) Do you recall speaking with me on or

4 (Pages 10 to 13)

1 about March 28th, 2006, after we received these documents?  
 2 A. Yes.  
 3 Q. Okay. And what do you recall we discussed?  
 4 A. The additional documentation.  
 5 Q. Okay.  
 6 MR. CRONIN: Let's go ahead and mark that,  
 7 please.  
 8 (Exhibit 2 marked.)  
 9 MR. CRONIN: Off the record.  
 10 (An off-the-record discussion was held at  
 11 10:16 a.m. for less than one minute.)  
 12 Q. (BY MR. CRONIN) You've been handed what's been  
 13 marked as CIGNA No. 2. Do you recognize this document?  
 14 A. Yes.  
 15 Q. And what is it?  
 16 A. It's your letter. It comes from the documents.  
 17 Q. Okay. And you received the letter on March 28th,  
 18 2006?  
 19 A. Yes.  
 20 Q. Okay. And what did you do after you got the letter?  
 21 A. I do believe I called you.  
 22 Q. Okay. And what else?  
 23 A. (No verbal response.)  
 24 Q. Did you do anything in connection with the various  
 25 requests I made in my -- in my letter?

1 A. Yes, I did.  
 2 Q. Okay. Tell me what you did.  
 3 A. I call you, and we discuss the additional  
 4 documentation regarding your concern.  
 5 Q. Okay. Well, let's -- there were a number of concerns  
 6 in the letter, correct?  
 7 A. Right.  
 8 Q. All right. And the first concern had to do with the  
 9 fact that certain of the documents that you first gave us had  
 10 certain parts of the narratives cut off --  
 11 A. Uh-huh.  
 12 Q. -- is that right?  
 13 A. Yes.  
 14 Q. Okay. So what did you do in response to that  
 15 concern?  
 16 A. I faxed the complete copy.  
 17 Q. Okay. Where did you get the complete copy?  
 18 A. From the computer.  
 19 Q. Okay. So rather than just take it out of the paper  
 20 file, you went to the computer, got the full text, and then you  
 21 faxed it to me?  
 22 A. Correct.  
 23 Q. All right. Now -- then I raise a second issue with  
 24 respect to the second part of the subpoena, what was being  
 25 requested, correct?

1 A. Yes.  
 2 Q. All right. And what did you understand to be the  
 3 nature of that request?  
 4 A. Yes.  
 5 Q. What did you understand to be the nature of that  
 6 request?  
 7 A. The second part?  
 8 Q. Yes.  
 9 A. I confirm I do not have the documentation.  
 10 Q. Okay. You confirmed that you don't have the  
 11 documentation to show what faxes were received --  
 12 A. Correct.  
 13 Q. -- at fax number (800) 325-7016 on June 21st, 2004?  
 14 A. Correct.  
 15 Q. All right. And how did you verify that?  
 16 A. I discussed with our technician.  
 17 Q. Who's your technician?  
 18 A. His name is Chris Roberts.  
 19 Q. Okay. What's Mr. Roberts' position?  
 20 A. I believe his title is LAN administrator.  
 21 Q. LAN admin- --  
 22 A. LAN, right.  
 23 Q. Meaning local area network administrator?  
 24 A. Yes.  
 25 Q. All right. And what did Mr. Roberts tell you?

1 A. In office?  
 2 Q. What did he tell you -- you went and talked to him.  
 3 A. Oh.  
 4 I checked with him to see if he can recognize  
 5 the number you listed in your letter.  
 6 Q. Well, first let's deal with the number 325-7016. The  
 7 first question had to do with whether there was some record  
 8 kept which would show what documents were received at that fax  
 9 number on a particular date, correct?  
 10 A. Correct.  
 11 Q. All right. Did you ask Mr. Roberts about that, or  
 12 did you ask somebody else?  
 13 A. I did not ask anybody.  
 14 Q. Okay. What did you do to find out the answer to my  
 15 question?  
 16 A. It's by our common knowledge.  
 17 Q. Okay. Common knowledge within CIGNA. Being what?  
 18 A. We don't --  
 19 MR. McDOUGAL: Objection; form.  
 20 Q. (BY MR. CRONIN) What's the common knowledge in CIGNA  
 21 with respect to records kept relating to faxes received at  
 22 particular numbers?  
 23 MR. McDOUGAL: Same objection.  
 24 Q. (BY MR. CRONIN) You can answer.  
 25 A. We don't keep the records.



<p style="text-align: right;">Page 18</p> <p>1 Q. All right. Now, with respect to the second issue in  2 the second paragraph, I asked you about another fax number and  3 specifically showed you, as an attachment to my letter, a  4 document that appears to have been sent to -- and if it will  5 help you, you can turn to the attachment on -- to that letter,  6 which is numbered HL 085.</p> <p>7 MR. McDOUGAL: At the back. It's the last --  8 THE WITNESS: In the back?  9 MR. McDOUGAL: Towards the back.  10 MR. CRONIN: Towards the back, yeah. I had --  11 off the record.</p> <p>12 (An off-the-record discussion was held at  13 10:22 a.m. for less than one minute.)</p> <p>14 Q. (BY MR. CRONIN) Now, in my letter to you on  15 March 28th, I referenced these three documents, HL 085 through  16 HL 087, as appearing to show that a document faxed to  17 1-800-325-7016 had gone to 1-800-377-4286. Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. All right. And I asked you if you could find out if  20 1-800-377-4286 was a CIGNA or LINA number. Does that sound  21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. So tell me what you did in trying to determine  24 that.</p> <p>25 A. I went to Chris Roberts, verified the number,</p>	<p style="text-align: right;">Page 20</p> <p>1 (An off-the-record discussion was held at  2 10:25 a.m. for less than one minute.)</p> <p>3 Q. (BY MR. CRONIN) Ms. Gunther, you've had handed to  4 you what's been marked as CIGNA Exhibit 3. Do you recognize  5 that document?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. What is it?</p> <p>8 A. A fax cover sheet.</p> <p>9 Q. Well, it's -- it's -- it's more than --</p> <p>10 A. To --</p> <p>11 Q. -- just a fax cover sheet, correct? A whole  12 document?</p> <p>13 A. This one?</p> <p>14 Q. Yes, ma'am.</p> <p>15 A. A fax cover sheet to you.</p> <p>16 Q. Okay.</p> <p>17 A. Uh-huh.</p> <p>18 Q. And there are documents attached to the fax cover  19 sheet?</p> <p>20 A. Oh. Yes.</p> <p>21 Q. Okay. And what are the documents attached to the  22 cover sheet?</p> <p>23 A. It's data entries from our system.</p> <p>24 Q. Okay. Let me see if I can speed this up.  25 Would it be fair to say that this fax is -- is</p>
<p style="text-align: right;">Page 19</p> <p>1 1-800-377-4286.</p> <p>2 Q. Okay.</p> <p>3 A. And his response was that he was unable to identify.</p> <p>4 Q. Why did you go to Mr. Roberts?</p> <p>5 A. He's the technician.</p> <p>6 Q. Are there other technicians with CIGNA?</p> <p>7 A. No.</p> <p>8 MR. McDOUGAL: Objection; form.  9 Sorry. I've got to make them --  10 MR. CRONIN: Sure.  11 MR. McDOUGAL: -- when you're asking about CIGNA  12 instead of LINA.</p> <p>13 MR. CRONIN: Okay. That's fine.</p> <p>14 MR. McDOUGAL: Because no one knows what CIGNA  15 is.</p> <p>16 Q. (BY MR. CRONIN) Are there other technicians with  17 LINA?</p> <p>18 A. No.</p> <p>19 MR. CRONIN: Let's go ahead and mark this.  20 (Exhibit 3 marked.)  21 MR. McDOUGAL: Okay. 3?  22 MR. CRONIN: Yep.  23 Go ahead and mark this No. 4.  24 (Exhibit 4 marked.)  25 MR. CRONIN: Off the record.</p>	<p style="text-align: right;">Page 21</p> <p>1 your production to me of the computer-generated copies of the  2 documents that had previously been cut off in the initial  3 response to the subpoena?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. All right. Now let's look at CIGNA No. 4.</p> <p>6 A. This one.</p> <p>7 Q. Do you recognize that document?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And what is it?</p> <p>10 A. Your confirmation.</p> <p>11 Q. Confirmation of our conversation?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Does it accurately state what you told me  14 regarding the existence of records that would reflect  15 information regarding faxes sent to fax number (800) 325-7016?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And since we had that conversation on  18 April 3rd, have you discovered that there are any documents in  19 existence which do reflect that information?</p> <p>20 A. No.</p> <p>21 Q. Okay. By the way, how many fax numbers are used by  22 LINA in connection with handling short-term disability claims  23 on behalf of its clients?</p> <p>24 A. I don't know.</p> <p>25 Q. Do you have any idea? Can you give me an</p>

6 (Pages 18 to 21)

<p style="text-align: right;">Page 22</p> <p>1 approximation? Hundreds?</p> <p>2 A. No.</p> <p>3 Q. More than ten?</p> <p>4 A. No.</p> <p>5 Q. Less than --</p> <p>6 A. I think it's under ten.</p> <p>7 Q. Less than ten?</p> <p>8 A. Uh-huh.</p> <p>9 Q. Under five?</p> <p>10 A. Maybe.</p> <p>11 Q. Okay. Do you know what they are?</p> <p>12 MR. McDOUGAL: I'm sorry. What was the</p> <p>13 question?</p> <p>14 Q. (BY MR. CRONIN) Do you know what the numbers are,</p> <p>15 the fax numbers?</p> <p>16 MR. McDOUGAL: Oh. I'm sorry.</p> <p>17 A. I cannot recall.</p> <p>18 Q. (BY MR. CRONIN) Okay. Does somebody keep the fax</p> <p>19 numbers? Does somebody -- is there some individual at CIGNA</p> <p>20 who would have knowledge of the fax numbers?</p> <p>21 A. Maybe customer service unit or the intake unit.</p> <p>22 Q. Or the intake unit?</p> <p>23 A. The intake unit. Where?</p> <p>24 Q. I'm sorry?</p> <p>25 A. Can you repeat?</p>	<p style="text-align: right;">Page 24</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Do you know somebody with CIGNA Group</p> <p>3 Disability by the name of Elizabeth Williams?</p> <p>4 A. No.</p> <p>5 Q. Do you know somebody with CIGNA Group Disability by</p> <p>6 the name of Janice Cook?</p> <p>7 A. No.</p> <p>8 Q. Okay.</p> <p>9 (Exhibit 5 marked.)</p> <p>10 MR. CRONIN: I just have one copy of this.</p> <p>11 MR. McDOUGAL: Oh, so this is the copy?</p> <p>12 MR. CRONIN: Yeah. I just made one copy of</p> <p>13 this. No, no, no, I've got the marked copy, but this is for</p> <p>14 you guys.</p> <p>15 MR. McDOUGAL: Do you want it back, or is this</p> <p>16 mine to write on?</p> <p>17 MR. CRONIN: Yeah, it's yours to mark -- No. 5.</p> <p>18 Are you okay?</p> <p>19 MR. McDOUGAL: I am, sure.</p> <p>20 Q. (BY MR. CRONIN) Okay. Ms. Gunther, I've handed you</p> <p>21 what's been marked as CIGNA No. 5. Do you recognize that</p> <p>22 document?</p> <p>23 A. No.</p> <p>24 Q. Okay. Do you see the number it's directed to?</p> <p>25 A. To whom it may concern.</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. Yeah. I'm just trying to figure out if somewhere</p> <p>2 within LINA --</p> <p>3 A. Uh-huh.</p> <p>4 Q. -- there is a place one could go to find out what are</p> <p>5 the fax numbers that are used in connection with short-term</p> <p>6 disability claims.</p> <p>7 A. Intake unit.</p> <p>8 Q. Intake?</p> <p>9 A. Yeah.</p> <p>10 Q. Okay. Is there a particular person in intake who</p> <p>11 would know?</p> <p>12 A. Steve Edwards.</p> <p>13 Q. Okay. Did you consider contacting Mr. Edwards with</p> <p>14 this number, 1-800-377-4286?</p> <p>15 A. No.</p> <p>16 Q. Okay. Why not?</p> <p>17 A. My understanding is the technician is sufficient.</p> <p>18 Q. Okay. Subsequent to our conversation on April 3rd,</p> <p>19 2006, did you come to learn that 800-377-4286 was a LINA fax</p> <p>20 number -- was or is a LINA fax number?</p> <p>21 A. It's not our fax number.</p> <p>22 Q. Okay. All right. You have no subsequent information</p> <p>23 since our conversation on April 3rd --</p> <p>24 A. No.</p> <p>25 Q. -- is that correct?</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. No, no, no. The fax number that it's directed to.</p> <p>2 A. My -- 377-4286.</p> <p>3 Q. Okay. That's the number that we've been discussing</p> <p>4 and that you checked with Chris Roberts about, correct?</p> <p>5 A. Correct.</p> <p>6 Q. All right. I'm going to play a couple of messages</p> <p>7 for you. I'm going to, first of all, mark as CIGNA No. 6 what</p> <p>8 I'll represent to you is the transcript of the message -- of</p> <p>9 the first one, and then we'll go through the second one -- of</p> <p>10 two calls that I received in response to this fax.</p> <p>11 (Exhibit 6 marked.)</p> <p>12 MR. CRONIN: And you can read along if you'd</p> <p>13 like.</p> <p>14 (Message played.)</p> <p>15 Message, Monday, April 3rd, at 12:07 p.m.</p> <p>16 Hi, Larry. This is Elizabeth Williams, calling</p> <p>17 from CIGNA Group Disability. And I received the fax that you</p> <p>18 sent, but I only got the cover sheet. I was wanting to know</p> <p>19 what the name of the claimant was or what it was you were</p> <p>20 faxing over to us. If you can give me a call again, I'd</p> <p>21 appreciate it. My number here is (972) 952-1087. And, again,</p> <p>22 this is in regards to a fax you sent us earlier today. Thanks.</p> <p>23 MR. CRONIN: Okay. Let's go ahead and mark the</p> <p>24 next one.</p> <p>25 (Exhibit 7 marked.)</p>

7 (Pages 22 to 25)

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1 Q. (BY MR. CRONIN) Okay. Ms. Gunther, I'm going to  
 2 hand you what's been marked as CIGNA No. 7. Again, I'm just  
 3 going to play you a recording. That is a -- the transcript.  
 4 (Message played.)  
 5 Message, Tuesday, April 4th, at 2:17 p.m.  
 6 Hi, this is Janice Cook with CIGNA Insurance.  
 7 We received a single-page fax from you yesterday, approximately  
 8 one o'clock. It says, To Whom It May Concern: Please contact  
 9 me upon receipt of this fax. The fax number you sent it to was  
 10 1-800-352-8553 -- oh, I'm sorry -- 1-800-642-8553. I don't  
 11 know if there's any additional pages. Please contact me. My  
 12 number is 1-800-352-0611, and my extension is 1284. Thank you.  
 13 Q. (BY MR. CRONIN) Okay. Ms. Gunther, do the  
 14 recordings of either of these phone calls affect your belief as  
 15 to whether 800-377-4286 is either a CIGNA or LINA fax number  
 16 used for the receipt of information regarding short-term  
 17 disability claims? Does it impact your belief that it's not?  
 18 MR. McDOUGAL: Objection; form.  
 19 A. Can you repeat the question again? I guess --  
 20 Q. (BY MR. CRONIN) Sure.  
 21 You've testified that subsequent to our  
 22 conversations in late March or early April, that you attempted  
 23 to find out whether this particular number that we've been  
 24 discussing is either a CIGNA or LINA fax number used in  
 25 connection with short-term disability claims. And I've played

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1 you two tape recordings that I received -- two voice mail  
 2 messages that I received in response to my fax to 800-377-4286.  
 3 And I'm asking you whether these messages impact your belief as  
 4 to whether or not this number, 800-377-4286, is a CIGNA or LINA  
 5 fax number.  
 6 A. I still don't believe the 800 --  
 7 MR. McDOUGAL: Same objection.  
 8 A. -- number 377-4286 -- still not a fax number, to my  
 9 knowledge.  
 10 Q. (BY MR. CRONIN) Okay. All right. Now, looking at  
 11 the transcript of -- that's contained on CIGNA No. 7 regarding  
 12 the -- Janice Cook. Do you see that one?  
 13 A. Yes.  
 14 Q. All right. Now, Ms. Cook mentions that the fax was  
 15 sent to 1-800-642-8553. Do you see that?  
 16 A. Yes.  
 17 Q. Okay. That, in fact, is not the fax number that it  
 18 was sent to, correct?  
 19 MR. McDOUGAL: Objection; form.  
 20 Q. (BY MR. CRONIN) You can look back at CIGNA No. 5.  
 21 A. No, that's not the same number.  
 22 Q. Okay. Do you recognize the number that Ms. Cook is  
 23 referring to?  
 24 A. No.  
 25 Q. All right.

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1 MR. CRONIN: Why don't we go ahead and mark that  
 2 as --  
 3 (Exhibit 8 marked.)  
 4 MR. McDOUGAL: That's 8?  
 5 MR. CRONIN: Yep.  
 6 Q. (BY MR. CRONIN) Ms. Gunther, I'm handing you what's  
 7 been marked as CIGNA No. 8. I'll represent to you this is a  
 8 page printed off of a web-site. Do you recognize it?  
 9 A. I can't -- no.  
 10 Q. Okay. Do you recognize the logo up in the upper  
 11 left-hand corner --  
 12 A. Yes.  
 13 Q. -- CIGNA?  
 14 A. Uh-huh.  
 15 Q. Are you familiar with that?  
 16 A. Yes.  
 17 Q. Okay. Does LINA have its own web-site with  
 18 instructions on how to file short-term disability claims?  
 19 A. I do believe they do, but I do not go to the  
 20 web-site --  
 21 Q. Okay.  
 22 A. -- for myself.  
 23 Q. Is this one that you believe exists -- is that one  
 24 that's made available to EDS employees?  
 25 A. I don't know.

Page 29

1 Q. All right. Now, looking on that document that's been  
 2 marked as CIGNA No. 8, do you see the fax number on that that  
 3 Ms. Cook references in her message, as indicated on CIGNA  
 4 No. 7?  
 5 A. Yes.  
 6 Q. Okay. And where is it?  
 7 A. 64 -- 1-800-642-8553.  
 8 Q. Okay. And how is it identified on the document as  
 9 being a fax number -- the purpose for that fax number?  
 10 A. Say again.  
 11 Q. Looking at this page from the --  
 12 A. Uh-huh.  
 13 Q. -- web-site that's been marked as CIGNA No. 8, what  
 14 is the purpose for which this fax number is listed?  
 15 A. The Document No. 8 -- can you repeat again?  
 16 Q. Sure.  
 17 The title of this page says, How To File a  
 18 Disability Claim, correct?  
 19 A. Yes.  
 20 Q. All right. And then it lists three steps --  
 21 A. Yes.  
 22 Q. -- is that correct?  
 23 What is the third step that's listed?  
 24 A. Mail or fax both the completed and the signed  
 25 disability claim form to the fax number 800-642-8553.

8 (Pages 26 to 29)

<p style="text-align: right;">Page 30</p> <p>1 Q. It also refers to the physician statement --</p> <p>2 A. Correct.</p> <p>3 Q. -- correct?</p> <p>4 And that's the fax number -- the same fax number</p> <p>5 that Ms. Cook refers to in her message to me, correct?</p> <p>6 MR. McDOUGAL: Objection; form.</p> <p>7 A. Yes.</p> <p>8 Q. (BY MR. CRONIN) Okay.</p> <p>9 MR. CRONIN: No further questions.</p> <p>10 MR. PIATAK: No questions.</p> <p>11 MR. McDOUGAL: None here.</p> <p>12 Thank you very much.</p> <p>13 THE REPORTER: Do you want to state your</p> <p>14 agreements on the record about sign- --</p> <p>15 MR. CRONIN: Well, it's really up to -- up to</p> <p>16 you, Craig. I mean, I think we will probably end up using this</p> <p>17 transcript at trial and usually advise the witness --</p> <p>18 MR. McDOUGAL: When's your trial date?</p> <p>19 MR. CRONIN: I think, like, fall sometime.</p> <p>20 MR. McDOUGAL: Oh, okay.</p> <p>21 MR. CRONIN: October, November.</p> <p>22 MR. PIATAK: Well, I don't think we have one.</p> <p>23 MR. CRONIN: Huh?</p> <p>24 MR. PIATAK: There's no definite one. It's -- I</p> <p>25 think it's --</p> <p style="text-align: right;">Page 31</p> <p>1 MR. CRONIN: We do.</p> <p>2 MR. PIATAK: It's not till November.</p> <p>3 MR. CRONIN: Yeah.</p> <p>4 MR. McDOUGAL: It's not in the next 30 days.</p> <p>5 Okay?</p> <p>6 Typically, you have the opportunity to get a</p> <p>7 copy of this transcript and read it --</p> <p>8 THE WITNESS: Sure.</p> <p>9 MR. McDOUGAL: -- and make sure that it's</p> <p>10 accurate and -- okay? So do you want to do that?</p> <p>11 THE WITNESS: Yeah.</p> <p>12 MR. McDOUGAL: Okay. So if you'll send it to me</p> <p>13 and just let me know -- I don't know if it's a federal rule or</p> <p>14 a local rule that's 30 versus 20 days, whatever -- just whatever</p> <p>15 the days are on that, I'll get it to you, and then we'll get it</p> <p>16 back to him. Okay?</p> <p>17 THE WITNESS: Uh-huh.</p> <p>18 (End of proceedings at 10:41 a.m.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 32</p> <p>1 CHANGES AND SIGNATURE</p> <p>2 PAGE/LINE CHANGE REASON FOR CHANGE__</p> <p>3 _____</p> <p>4 _____</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 I, GRACIE GUNTHER, have read the foregoing deposition and</p> <p>16 hereby affix my signature that same is true and correct except</p> <p>17 as noted herein.</p> <p>18 _____</p> <p>19 GRACIE GUNTHER</p> <p>20 CA# 05-477 SLR</p> <p>21 STATE OF TEXAS )</p> <p>22 Subscribed and sworn to before me by the said witness,</p> <p>23 GRACIE GUNTHER, on this the ____ day of _____,</p> <p>24 2006.</p> <p>25 _____</p> <p>26 NOTARY PUBLIC IN AND FOR</p> <p>27 THE STATE OF _____</p> <p>28 _____</p> <p>29 My Commission Expires:</p> <p>30 _____</p> <p>31 _____</p> <p>32 _____</p> <p>33 _____</p> <p>34 _____</p> <p>35 _____</p> <p>36 _____</p> <p>37 _____</p> <p>38 _____</p> <p>39 _____</p> <p>40 _____</p> <p>41 _____</p> <p>42 _____</p> <p>43 _____</p> <p>44 _____</p> <p>45 _____</p> <p>46 _____</p> <p>47 _____</p> <p>48 _____</p> <p>49 _____</p> <p>50 _____</p> <p>51 _____</p> <p>52 _____</p> <p>53 _____</p> <p>54 _____</p> <p>55 _____</p> <p>56 _____</p> <p>57 _____</p> <p>58 _____</p> <p>59 _____</p> <p>60 _____</p> <p>61 _____</p> <p>62 _____</p> <p>63 _____</p> <p>64 _____</p> <p>65 _____</p> <p>66 _____</p> <p>67 _____</p> <p>68 _____</p> <p>69 _____</p> <p>70 _____</p> <p>71 _____</p> <p>72 _____</p> <p>73 _____</p> <p>74 _____</p> <p>75 _____</p> <p>76 _____</p> <p>77 _____</p> <p>78 _____</p> <p>79 _____</p> <p>80 _____</p> <p>81 _____</p> <p>82 _____</p> <p>83 _____</p> <p>84 _____</p> <p>85 _____</p> <p>86 _____</p> <p>87 _____</p> <p>88 _____</p> <p>89 _____</p> <p>90 _____</p> <p>91 _____</p> <p>92 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<p style="text-align: right;">Page 31</p> <p>1 MR. CRONIN: We do.</p> <p>2 MR. PIATAK: It's not till November.</p> <p>3 MR. CRONIN: Yeah.</p> <p>4 MR. McDOUGAL: It's not in the next 30 days.</p> <p>5 Okay?</p> <p>6 Typically, you have the opportunity to get a</p> <p>7 copy of this transcript and read it --</p> <p>8 THE WITNESS: Sure.</p> <p>9 MR. McDOUGAL: -- and make sure that it's</p> <p>10 accurate and -- okay? So do you want to do that?</p> <p>11 THE WITNESS: Yeah.</p> <p>12 MR. McDOUGAL: Okay. So if you'll send it to me</p> <p>13 and just let me know -- I don't know if it's a federal rule or</p> <p>14 a local rule that's 30 versus 20 days, whatever -- just whatever</p> <p>15 the days are on that, I'll get it to you, and then we'll get it</p> <p>16 back to him. Okay?</p> <p>17 THE WITNESS: Uh-huh.</p> <p>18 (End of proceedings at 10:41 a.m.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 33</p> <p>1 STATE OF TEXAS )</p> <p>2 I, Caroline Miller, RPR, a Certified Shorthand Reporter in</p> <p>3 and for the State of Texas, do hereby certify that, pursuant to</p> <p>4 the agreement hereinbefore set forth, there came before me on</p> <p>5 the 4th day of May, A.D., 2006, at 9:51 a.m., at the offices of</p> <p>6 Crouch &amp; Ramey, located at 1445 Ross Avenue, Suite 3600, in the</p> <p>7 City of Dallas, State of Texas, the following named person, to</p> <p>8 wit: GRACIE GUNTHER, who was by me duly cautioned and sworn to</p> <p>9 testify the truth, the whole truth and nothing but the truth,</p> <p>10 of her knowledge touching and concerning the matters in</p> <p>11 controversy in this cause; and that she was thereupon carefully</p> <p>12 examined upon her oath, and her examination was reduced to</p> <p>13 writing under my supervision; that the deposition is a true</p> <p>14 record of the testimony given by the witness, same to be sworn</p> <p>15 to and subscribed by said witness before any Notary Public,</p> <p>16 pursuant to the agreement of the parties; and that the amount</p> <p>17 of time used by each party at the deposition is as follows:</p> <p>18 Mr. Laurence Cronin - 00:38,</p> <p>19 Mr. Thomas Piatak - 00:00,</p> <p>20 Mr. Craig McDougal - 00:00;</p> <p>21 I further certify that I am neither attorney or counsel</p> <p>22 for, nor related to or employed by, any of the parties to the</p> <p>23 action in which this deposition is taken, and further that I am</p> <p>24 not a relative or employee of any attorney or counsel employed</p> <p>25 by the parties hereto, or financially interested in the action.</p>

1 I further certify that, before completion of the  
2 deposition, the Deponent \_\_\_\_\_, and/or the Plaintiff/Defendant  
3 \_\_\_\_\_, did \_\_\_\_\_ did not \_\_\_\_\_ request to review the  
4 transcript.

5 In witness whereof, I have hereunto set my hand and  
6 affixed my seal this 16th day of May, A.D., 2006.

7

8

Caroline Tadlock, RPR, Texas CSR 6226

9

Expiration Date: 12/31/2006

Firm Registration No. 286

10

Esquire Deposition Services

1700 Pacific Avenue, Suite 4750

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Dallas, Texas 75201

(214) 257-1436

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13 Taxable Cost: \$ \_\_\_\_\_

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<p><b>A</b></p> <p><b>above-styled</b> 1:19</p> <p><b>account</b> 8:11,13 8:15,17</p> <p><b>accounts</b> 7:13 8:6,9,9,10,12</p> <p><b>accurate</b> 31:10</p> <p><b>accurately</b> 21:13</p> <p><b>action</b> 1:5 33:23 33:25</p> <p><b>additional</b> 14:4 15:3 26:11</p> <p><b>admin</b> 16:21</p> <p><b>administered</b> 13:6</p> <p><b>administering</b> 7:25 11:9</p> <p><b>administers</b> 13:17</p> <p><b>administrator</b> 16:20,23</p> <p><b>advise</b> 30:17</p> <p><b>affect</b> 26:14</p> <p><b>affix</b> 32:15</p> <p><b>affixed</b> 34:6</p> <p><b>agreement</b> 33:4 33:16</p> <p><b>agreements</b> 30:14</p> <p><b>ahead</b> 14:6 19:19,23 25:23 28:1</p> <p><b>America</b> 5:21,23</p> <p><b>amount</b> 33:16</p> <p><b>and/or</b> 34:2</p> <p><b>answer</b> 5:10 12:3 17:14,24</p> <p><b>answering</b> 5:7</p> <p><b>answers</b> 5:9</p> <p><b>anybody</b> 17:13</p> <p><b>Appearances</b> 3:3</p> <p><b>appearing</b> 18:16</p> <p><b>appears</b> 18:4</p> <p><b>applications</b> 13:2</p> <p><b>appreciate</b> 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